

UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS

\_\_\_\_\_  
HOLLY ZUPOFSKA,  
\_\_\_\_\_  
Plaintiff,  
\_\_\_\_\_  
v.  
\_\_\_\_\_  
WYNDHAM INTERNATIONAL, INC.  
\_\_\_\_\_  
Defendant.  
\_\_\_\_\_

C.A. No.:

NOTICE OF REMOVAL

05 11532 RWZ

TO: THE HONORABLE JUDGES OF THE  
UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS

MAGISTRATE JUDGE Dean

The defendant, WYNDHAM INTERNATIONAL, INC., (hereinafter referred to as  
“Defendant”), by and through their attorneys, Taylor, Duane, Barton & Gilman, LLP  
respectfully says:

1. The petitioner is a defendant in the above-entitled action.
2. The plaintiff commenced the above-captioned action on or about April 4,  
2005, by filing a Complaint in the Superior Court Department of the Trial Court, Suffolk  
County, Commonwealth of Massachusetts, entitled Holly Zupofska v. Wyndham  
International, Inc., Civil Action No. 2005-1302. This action is now pending in that Court.
3. On or about July 1, 2005, the plaintiff served copies of the Summons and  
Complaint upon the Defendant, Wyndham International, Inc., via Corporation Service  
Company, its registered agent. A copy of each of the foregoing papers, which constitute all  
of the processes and pleadings to date, are annexed hereto as Exhibit “A.”

4. This claim or cause of action is one over which the Court has original jurisdiction under the provisions of 28 U.S.C. §1332, and is one that may be removed to this Court by the Defendant pursuant to the provisions of 28 U.S.C. §1441.

5. This Court has diversity jurisdiction pursuant to 28 U.S.C. §1332, in that:

(a) Defendant Wyndham International, Inc. is a corporation organized under the laws of the State of Delaware. The Defendant's principal place of business is located at 1950 Stemmons Freeway, Dallas, Texas 75207.

(b) According to paragraph 1 of the plaintiff's Complaint, the plaintiff is an individual who resides in Taunton, Massachusetts.

(c) This civil action is an action for personal injuries in which the plaintiff is alleging, among other things, that she was caused personal injuries as a result of the failure of the Defendant to provide safe and reasonable accommodations to the plaintiff during a vacation at a resort hotel in St. Thomas. The plaintiff alleges that she was sexually assaulted while at said resort.

(d) The amount in controversy, upon information and belief, exceeds the sum or value of \$75,000, exclusive of interest or costs, and is between citizens of different states. According to her Complaint, the plaintiff, Holly Zupofska, claims that she has sustained physical and emotional injury, as well as economic loss. According to the settlement demand letter attached as Exhibit "A" to her Complaint, the plaintiff seeks damages in the amount of \$2,000,000. Therefore, this Court has diversity jurisdiction over this action pursuant to 28 U.S.C. §1332.

6. This Notice of Removal is filed within the time provided by 28 U.S.C. §1446(b) and the Federal Rules of Civil Procedure.

7. Upon the filing of this Notice of Removal, the Defendant shall give written notice thereof to William E. Gately, Jr., Esq., attorney for the plaintiff, and the Defendant shall file copies of this Notice of Removal and Notice of Filing of Removal, with the Court Clerk, Superior Court Department of the Trial Court, Commonwealth of Massachusetts, Suffolk County, Massachusetts.

8. By filing this Notice of Removal, the Defendant does not waive any defenses that may be available to it, specifically including, but not limited to, improper service of process, misnomer of a party and the absence of venue in this Court or in the Court from which this action has been removed.

WHEREFORE, the Defendant, Wyndhman International, Inc., removes the above-captioned action now pending against them in the Superior Court Department of the Trial Court, Commonwealth of Massachusetts, Suffolk County, Massachusetts to the United States District Court for the District of Massachusetts, wherein it shall proceed as an action originally commenced therein.

Dated: July 20, 2005

The Defendant,  
Wyndham International, Inc.,  
By its Attorneys,



Edward D. Shoulkin  
B.B.O. No.: 555483  
Eric M. Chodkowski  
B.B.O. No.: 648629  
Taylor, Duane, Barton & Gilman, LLP  
160 Federal Street, 5<sup>th</sup> Floor  
Boston, MA 02110  
(617) 654-8200

**CERTIFICATE OF SERVICE**

I, Edward D. Shoulkin, hereby certify that on July 20, 2005, I caused a copy of the Defendant's Notice of Removal to be served by overnight mail, postage prepaid to William E. Gately, Jr., 400 Washington Street, Braintree, MA 02185, attorney for the plaintiff.

I hereby further certify that on this date I caused a copy of the Defendant's Notice of Filing of Removal together with a copy of the Notice of Removal to be delivered for filing by hand delivery, to the Civil Clerk, Superior Court Department of the Trial Court, Commonwealth of Massachusetts, Suffolk County, Massachusetts.



Edward D. Shoulkin

# Commonwealth of Massachusetts

SUFFOLK, ss.

SUPERIOR COURT DEPARTMENT  
OF THE TRIAL COURT  
CIVIL ACTION



No. SUC12605-1302

Holly Zuposka, Plaintiff(s)

v.

Wynham International, Inc. Defendant(s)

## SUMMONS

To the above-named Defendant:

You are hereby summoned and required to serve upon William E. Gately Jr.  
400 Washington St Braintree, MA 02184  
plaintiff's attorney, whose address is 400 Washington St Braintree, MA 02184, an answer to  
the complaint which is herewith served upon you, within 20 days after service of this summons upon you,  
exclusive of the day of service. If you fail to do so, judgment by default will be taken against you for the  
relief demanded in the complaint. You are also required to file your answer to the complaint in the office  
of the Clerk of this court at Boston either before service upon plaintiff's attorney or within a reasonable  
time thereafter.

Unless otherwise provided by Rule 13(a), your answer must state as a counterclaim any claim which  
you may have against the plaintiff which arises out of the transaction or occurrence that is the subject  
matter of the plaintiff's claim or you will thereafter be barred from making such claim in any other action.

Witness, Barbara J. Rouse, Esquire, at Boston, the 30 day of  
June, in the year of our Lord two thousand 05

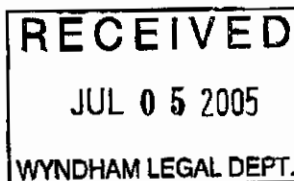
Michael Joseph Donovan  
Clerk/Magistrate  
A true copy Attest: John Catter  
Deputy Sheriff Suffolk County

### NOTES.

1. This summons is issued pursuant to Rule 4 of the Massachusetts Rules of Civil Procedure.
2. When more than one defendant is involved, the names of all defendants should appear in the caption. If a separate summons is used for each defendant, each should be addressed to the particular defendant.
3. TO PLAINTIFF'S ATTORNEY: PLEASE CIRCLE TYPE OF ACTION INVOLVED  
(1) TORT -- (2) MOTOR VEHICLE TORT -- (3) CONTRACT -- (4) EQUITABLE RELIEF -- (5) OTHER



CORPORATION SERVICE COMPANY



## Notice of Service of Process

BMZ / ALL  
Transmittal Number: 4063554  
Date Processed: 07/01/2005

**Primary Contact:** Shannon Taylor  
Wyndham International  
1950 Stemmons Frwy  
Suite 6001  
Dallas, TX 75207

C/P/F/R to Risk

<b>Entity:</b>	Wyndham International Inc. Entity ID Number 1893385
<b>Entity Served:</b>	Wyndham International, Inc.
<b>Title of Action:</b>	Holly Zupofsky vs. Wyndham International, Inc.
<b>Document(s) Type:</b>	Summons/Complaint
<b>Nature of Action:</b>	Other
<b>Court:</b>	Suffolk County Superior Court , Massachusetts
<b>Case Number:</b>	SUCV2005-130
<b>Jurisdiction Served:</b>	Massachusetts
<b>Date Served on CSC:</b>	07/01/2005
<b>Answer or Appearance Due:</b>	20 Days
<b>Originally Served On:</b>	CSC
<b>How Served:</b>	Personal Service
<b>Plaintiff's Attorney :</b>	William E Gately, Jr. None Given

Information contained on this transmittal form is for record keeping, notification and forwarding the attached document(s). It does not constitute a legal opinion. The recipient is responsible for interpreting the documents and taking appropriate action.

**To avoid potential delay, please do not send your response to CSC.**  
2711 Centerville Road Wilmington, DE 19808 (888) 690-2882 | [sop@cscinfo.com](mailto:sop@cscinfo.com)

<b>CIVIL ACTION COVER SHEET</b>		<b>Trial Court of Massachusetts SUPERIOR COURT DEPARTMENT County: <u>Suffolk</u></b>		Docket Number:
PLAINTIFF(S)  Holly Zupotska		DEFENDANT(S)  Wyndham International nc.		
ATTORNEY, FIRM NAME, ADDRESS AND TELEPHONE William E. Gately, Jr. - Attorney at Law 100 Washington Street, Suite 201, Braintree, MA 02184 - Board of Bar Overseers Number 549132		ATTORNEY (if known) - -		
<b>Origin code and track designation</b>				
Place an x in one box only:				
<input checked="" type="checkbox"/> 1. F01 Original Complaint	<input type="checkbox"/> 4. F04 District Court Appeal c. 231, s. 97 & 104 (After trial)	(X)		
<input type="checkbox"/> 2. F02 Removal to Sup. Ct. C. 231, s. 104 (Before trial)	<input type="checkbox"/> 5. F05 Reactivated after rescript; relief from judgment/ Order (Mass. R. Civ. P. 60)	(X)		
<input type="checkbox"/> 3. F03 Retransfer to Sup. Ct. C. 231, s. 102C	<input type="checkbox"/> 6. E10 Summary Process Appeal	(X)		
<b>TYPE OF ACTION AND TRACK DESIGNATION (See reverse side)</b>				
CODE NO. <u>A99</u>	TYPE OF ACTION (specify) <u>#A</u>	TRACK ( F )	IS THIS A JURY CASE? ( ) Yes ( ) No	
<b>The following is a full, itemized and detailed statement of the facts on which plaintiff relies to determine money damages. For this form, disregard double or treble damage claims; indicate single damages only.</b>				
<b>TORT CLAIMS</b> (Attach additional sheets as necessary)				
A. Documented medical expenses to date:				
1. Total hospital expenses.....		\$	450.00	
2. Total Doctor expenses.....		\$	3300.000	
3. Total chiropractic expenses.....		\$	0.00	
4. Total physical therapy expenses.....		\$	0.00	
5. Total other expenses.....		\$	1.00	
<b>Subtotal</b>			\$	<b>3,751.00</b>
B. Documented lost wages and compensation to date..... \$ 2,000.00				
C. Documented property damages to date..... \$ 0.00				
D. Reasonable anticipated future medical and hospital expenses..... \$ 0.00				
E. Reasonable anticipated lost wages..... \$ 0.00				
F. Other documented items of damages (describe): 93A Damges caused by Defendants failure to settle claim and breach of contract..... \$ 0.00				
G. Brief description of plaintiff's injury, including nature and extent of injury (describe): The Plaintiff ws sexually assaulted while on cacion by a an employee of the Defendant. The Defendatnt failed to settle claim or specify reason for its denial of laibility. The Defeant breached contract with the Plaintiff..				
<b>TOTAL</b>			\$	<b>5,751.00</b>
<b>CONTRACT CLAIMS</b> (Attach additional sheets as necessary)				
Provide a detailed description of claim(s): The Defeneant failed to provide a trip that the Palintiff won which was safe.				
<b>TOTAL</b>			\$	
PLEASE IDENTIFY, BY CASE NUMBER, NAME AND COUNTY, ANY RELATED ACTION PENDING IN THE SUPERIOR COURT DEPARTMENT:				
"I hereby certify that I have complied with the requirements of Rule 5 of the Supreme Judicial Court Uniform Rules on Dispute Resolution (SJC Rule 1:18) requiring that I provide my clients with information about court-connected dispute resolution services and discuss with them the advantages and disadvantages of various methods."				
Signature of Attorney of Record			DATE: 7-1-05	

O.S.C. 2003

PSC (800) 518-8726 - c.g.f.

## CIVIL ACTION COVER SHEET INSTRUCTIONS

### SELECT CATEGORY THAT BEST DESCRIBES YOUR CASE

**CONTRACT**

A01 Services, labor and materials (F)  
 A02 Goods sold and delivered (F)  
 A03 Commercial Paper (F)  
 A08 Sale or lease of real estate (F)  
 A12 Construction Dispute (A)  
 A99 Other (Specify) (F)

**TORT**

B03 Motor Vehicle Negligence-  
 Personal Injury/Property Damage (F)  
 B04 Other Negligence-  
 Personal Injury/Property Damage (F)  
 B05 Products Liability (A)  
 B06 Malpractice-Medical (A)  
 B07 Malpractice-Other (Specify) (A)  
 B08 Wrongful death, G.L.c.229, s.2A (A)  
 B15 Defamation (Libel-Slander) (A)  
 B19 Asbestos (A)  
 B20 Personal Injury-Slip&Fall (F)  
 B21 Environmental (F)  
 B22 Employment Discrimination (F)  
 B99 Other (Specify) (F)

**REAL PROPERTY**

C01 Land Taking (eminent domain) (F)  
 C02 Zoning Appeal, G.L.c.40A (F)  
 C03 Dispute Concerning Title (F)  
 C04 Foreclosure of Mortgage (X)  
 C05 Condominium lien & charges (X)  
 C99 Other (Specify) (X)

**EQUITABLE REMEDIES**

D01 Specific performance of contract (A)  
 D02 Reach and Apply (F)  
 D06 Contribution or Indemnification (F)  
 D07 Imposition of Trust (A)  
 D08 Minority Stockholder's Suit (A)  
 D10 Accounting (A)  
 D12 Dissolution of Partnership (F)  
 D13 Declaratory Judgment, G.L.c. 231A (A)  
 D99 Other (Specify) (F)

**MISCELLANEOUS**

E02 Appeal from Administrative Agency, G.L.c.30A (X)  
 E03 Action against Commonwealth /Municipality, G.L.c.258 (A)  
 E05 Arbitration (X)  
 E07 G.L.c.112, s.12S (Mary Moe) (X)  
 E08 Appointment of Receiver (X)  
 E09 General Contractor bond, G.L.c.149, s.29, 29A (A)  
 E11 Workers' Compensation (X)  
 E12 G.L.c.123A, s.12 (SDP Commitment) (X)  
 E14 G.L.c.123A, s.9 (SDP Petition) (X)  
 E15 Abuse Petition, G.L.c.209A (X)  
 E16 Auto Surcharge Appeal (X)  
 E17 Civil Rights Act, G.L.c.12, s.11H (A)  
 E18 Foreign Discovery Proceeding (X)  
 E19 Sex Offender Registry, G.L.c. 178M, s.6 (X)  
 E25 Pleural Registry (Asbestos cases)  
 E95 Forfeiture, G.L.c.94C, s.47 (F)  
 E96 Prisoner Cases (F)  
 E97 Prisoner Habeas Corpus (X)  
 E99 Other (Specify) (X)

**TRANSFER YOUR SELECTION TO THE FACE SHEET****EXAMPLE:**

CODE NO.	TYPE OF ACTION (SPECIFY)	TRACK	IS THIS A JURY CASE?
23	Motor Vehicle Negligence-Personal Injury	(F)	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No

**SUPERIOR COURT RULE 29**

**DUTY OF THE PLAINTIFF.** The plaintiff or his/her counsel shall set forth, on the face sheet (or attach additional sheets as necessary), a statement specifying in full and itemized detail the facts upon which the plaintiff then relies as constituting money damages. A copy of such civil action cover sheet, including the statement as to the damages, shall be served on the defendant together with the complaint. If a statement of money damages, where appropriate is not filed, the Clerk-Magistrate shall answer the action as provided in Rule 29(5)(C).

**DUTY OF THE DEFENDANT.** Should the defendant believe the statement of damages filed by the plaintiff in any respect adequate, he or his counsel may file with the answer a statement specifying in reasonable detail the potential damages which may result should the plaintiff prevail. Such statement, if any, shall be served with the answer.

**A CIVIL ACTION COVER SHEET MUST BE FILED WITH EACH COMPLAINT.**

**FAILURE TO COMPLETE THIS COVER SHEET THOROUGHLY AND ACCURATELY  
 MAY RESULT IN DISMISSAL OF THIS ACTION.**

**COMMONWEALTH OF MASSACHUSETTS****SUFFOLK****SUPERIOR COURT DEPARTMENT  
C.A.**

\*\*\*\*\*

**HOLLY ZUPOFSKA****Plaintiff****v.****WYNDHAM INTERNATIONAL,  
INC.****Defendant**

\*\*\*\*\*

**COMPLAINT AND JURY CLAIM**

Now comes the Plaintiff and states the following:

**I. THE PARTIES**

The Plaintiff, Holly Zupofska is an individual residing in Taunton, Massachusetts at all times relevant to this complaint.

The Defendant Wyndham International, Inc. is a foreign corporation doing business through the Commonwealth of Massachusetts including Suffolk County.

**II. GENERAL STATMENET OF FACTS**

The Plaintiff Holly Zupofska at all times relevant to this complaint was an employee of National Leisure Group, Inc of Woburn Massachusetts

The Plaintiff was employed as a travel consultant for National Leisure Group, Inc. at all times relevant to this complaint

In January of 2001 while an employee of the National Leisure Group, Inc the Plaintiff sold trips on behalf of the Defendant at a travel exhibition held in Boston, Massachusetts at the Bayside Exposition Center.

5. As a part of this travel exhibition the Plaintiff was eligible and took part in a sales contest

7. The Plaintiff won the sales contest and was awarded a free trip for two at the Wyndham Sugar Bay Beach Club and Resort in St. Thomas, USVI for two.

8. As a part of this trip the Plaintiff would be viewed as a representative of her employer, National Leisure Group, Inc.

9. The Plaintiff along with a Guest (another employee of national Leisure Group, Inc. arrived at the resort on or about March 31, 2002.

10. Upon arrival at the resort and check-in the Plaintiff proceeded to the Buffet and pool area where she was greeted by the Hotel's Activities Director, Patrick Taylor

11. The Defendant's Activities Director greeted the Plaintiff and her guest and advised them that they should contact him if they needed anything.

12. During the course of the remainder of the evening the Plaintiff and Patrick Taylor discussed the many features of the resort, the changes from the previous year and other general business matters.

13. During the Course of the evening the Plaintiff and the Patrick Taylor ate and drank at the Hotel Buffet.

14. During the evening the Plaintiff was sexually assaulted by Patrick Taylor the Defendant's activities director.

15. Upon information and belief the Defendant's employee, servant and agent, Patrick Taylor had engaged in at least one earlier incident of inappropriate sexual behavior of which the Defendant was aware or should have been aware

16. Upon information and belief the Defendant's failed to discipline and/or terminate this employee, servant and agent for this previous incident of inappropriate sexual behavior.

17. During the preceding days the plaintiff reported the incident to the management of the Resort and to local law enforcement authorities.

**COUNT I.-REACH OF CONTRACT**

18. The Plaintiff re-alleges paragraphs 1 thru 20 as previously stated and further alleges
19. The Defendant entered into a contract with National Leisure Group, Inc. and its employee(s) to provide a free trip to the employee who was the top sales consultant at the travel exhibition.
20. The formation of this contract occurred within the Commonwealth of Massachusetts.
21. The trip was to be all inclusive.
22. As a part of this contract the Defendant had a duty to provide safe and reasonable accommodations to the Plaintiff as the winner of the sales contest and her guest.
23. The Defendant breached this contract by employing the person who assaulted her and allowing conditions to exist under which the Plaintiff was put in contact with this dangerous individual in his role as a representative, employee, servant and/or consultant for the Defendant.
24. As a result of this assault the Plaintiff has sustained economic loss which includes loss of income opportunities, loss of travel opportunities and a diminishment in the ability of the Plaintiff to work as a travel agent.

Wherefore the Plaintiff demands judgment against the Defendant in an amount to be determined by a Judge or Jury.

**COUNT II-UNFAIR AND DECEPTIVE BUISNESS PRACTICES**

25. The Plaintiff re-alleges paragraphs 1 thru 33 as previously stated and further alleges
26. The facts and allegations as stated above also represent a violation of Chapter 93A of the Massachusetts General Law.

27. On or about October 16, 2001 the Defendant was served with a Demand for Settlement.
28. The Defendant failed during the subsequent 30 days or at anytime since then to extend a reasonable settlement offer.
29. Wherefore the Plaintiff requests that the Court find that the Defendant has violated Chapter 93A.
30. The Plaintiff further requests that any damages awarded to her be trebled and that she be awarded attorneys fee and reasonable costs in accordance with the provisions of Chapter 93A of the Massachusetts General Law.

Wherefore the Plaintiff demands judgment against the Defendant in an amount to be determined by a Judge or Jury.

Respectfully Submitted  
The Plaintiff  
By her Attorney,

---

William E. Gately, Jr.  
BBO#: 549132  
Law Office of William E. Gately, Jr.  
400 Washington Street  
P.O. Box 850920  
Braintree, MA 02185

**LAW OFFICE OF DAVID GROSSACK, P.C.**

Post Office Box 90  
Hull, Massachusetts 02045  
Telephone: (781) 261-9990  
Facsimile: (781) 261-9996

October 16, 2001

Mr. Ted Teng  
Wyndham International  
1950 North Stemmons Freeway, Suite 6061  
Dallas, TX 75207

Dear Mr. Teng:

Please be advised the undersigned represents Ms. Holly Zupofska in her claim against your corporation for negligence, unfair and deceptive business practices, breach of contract and other tortious wrongdoing arising from an incident which occurred at the Wyndham Sugar Bay Beach Club and Resort in St. Thomas.

My client is employed as a travel consultant by National Leisure Group in Taunton, Massachusetts. At a recent travel show she was a winner of a contest sponsored by your company in which the prize was a vacation at the Wyndham Resort in St. Thomas.

Ms. Zupofska arrived at the resort on March 31, 2001.

The hotel's activities director, Patrick Taylor, introduced himself to my client in a representative capacity of your hotel. His pretext for meeting and speaking with my client was to explain to her the features of the hotel for promotional use in the travel business. He invited himself to join her and then spiked her drink with a date rape drug.

Ms. Zupofska was later raped and sodomized by your employee on the beach near the hotel, and she continues to suffer great emotional distress from the incident.

It is our understanding that Mr. Taylor had been disciplined for inappropriate sexual conduct in the past by your company.

The hiring, lax supervision, and maintaining on the payroll of Mr. Taylor breached a duty of care owed to patrons.

Page 2 of 2

October 16, 2001 - Ted Teng, Wyndham International  
Re: Holly Zupofska

Moreover, because the conduct of your employee was an outrageous criminal act conducted in the context of a "business to business" relationship between your company and Ms. Zupofska in her capacity as a travel agent, Massachusetts Law Chapter 93A applies.

This statute makes all unfair and deceptive business practices unlawful. The hiring of a dangerous sexual predator such as Mr. Taylor, and keeping him employed after he was known as such, was surely an unfair business practice. If he had not been employed by your company, he would never have been in a position to abuse my client.

Clearly when Ms. Zupofska agreed to accept her prize and come to your hotel she had no idea of the risks involved.

As a direct and proximate cause of your company's neglect, my client has suffered a trauma which will impact her for the rest of her life.

Therefore, I am demanding as compensation for her the sum of \$2,000,000.00.

Massachusetts General Law Chapter 93A allows you thirty (30) days to respond to this claim after a diligent investigation. Failure to respond to this demand when liability and damages are clear may subject your company treble damages and responsibilities for my fee.

I would therefore expect you to reply to this demand promptly after a reasonable good faith investigation of this incident.

Sincerely,



David C. Grossack

DCG/jls

JS 44 (Rev. 11/04)

**CIVIL COVER SHEET**

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.)

**I. (a) PLAINTIFFS**

Holly Zupofska

**DEFENDANTS**

Wyndham International, Inc.

(b) County of Residence of First Listed Plaintiff Bristol County, Mass.  
(EXCEPT IN U.S. PLAINTIFF CASES)

County of Residence of First Listed Defendant Dallas County, Texas  
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE LAND INVOLVED.

(c) Attorney's (Firm Name, Address, and Telephone Number)

William E. Gately, Jr.  
400 Washington Street Braintree, MA 02185 (781)848-1200

Attorneys (If Known)

Edward D. Shoulkin Eric M. Chodkowski 160 Federal Street  
Taylor, Duane, Barton & Gilman Boston, MA 617-654-8200

**II. BASIS OF JURISDICTION** (Place an "X" in One Box Only)

- ☐ 1 U.S. Government Plaintiff ☐ 3 Federal Question (U.S. Government Not a Party)
- ☐ 2 U.S. Government Defendant ☒ 4 Diversity (Indicate Citizenship of Parties in Item III)

**III. CITIZENSHIP OF PRINCIPAL PARTIES** (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- |   |                                       |                            |   |                            |                                       |
|---|---------------------------------------|----------------------------|---|----------------------------|---------------------------------------|
|   | PTF                                   | DEF                        |   | PTF                        | DEF                                   |
| Citizen of This State                   | <input checked="" type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business In This State     | <input type="checkbox"/> 4 | <input type="checkbox"/> 4            |
| Citizen of Another State                | <input type="checkbox"/> 2            | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business In Another State | <input type="checkbox"/> 5 | <input checked="" type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3            | <input type="checkbox"/> 3 | Foreign Nation  | <input type="checkbox"/> 6 | <input type="checkbox"/> 6            |

**IV. NATURE OF SUIT** (Place an "X" in One Box Only)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	<b>PERSONAL INJURY</b> <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input checked="" type="checkbox"/> 360 Other Personal Injury <b>PERSONAL INJURY</b> <input type="checkbox"/> 362 Personal Injury - Med. Malpractice <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability <b>PERSONAL PROPERTY</b> <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 610 Agriculture <input type="checkbox"/> 620 Other Food & Drug <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 630 Liquor Laws <input type="checkbox"/> 640 R.R. & Truck <input type="checkbox"/> 650 Airline Regs. <input type="checkbox"/> 660 Occupational Safety/Health <input type="checkbox"/> 690 Other	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 <b>PROPERTY RIGHTS</b> <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark <b>SOCIAL SECURITY</b> <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g))	<input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 810 Selective Service <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 875 Customer Challenge 12 USC 3410 <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 892 Economic Stabilization Act <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 894 Energy Allocation Act <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice <input type="checkbox"/> 950 Constitutionality of State Statutes
<b>REAL PROPERTY</b> <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	<b>CIVIL RIGHTS</b> <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 444 Welfare <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 440 Other Civil Rights	<b>PRISONER PETITIONS</b> <input type="checkbox"/> 510 Motions to Vacate Sentence <b>Habeas Corpus:</b> <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition	<b>LABOR</b> <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act	<b>FEDERAL TAX SUITS</b> <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609

**V. ORIGIN**

(Place an "X" in One Box Only)

- ☐ 1 Original Proceeding ☒ 2 Removed from State Court ☐ 3 Remanded from Appellate Court ☐ 4 Reinstated or Reopened ☐ 5 Transferred from another district (specify) ☐ 6 Multidistrict Litigation ☐ 7 Appeal to District Judge from Magistrate Judgment

**VI. CAUSE OF ACTION**

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):

28 U.S.C. § 1332

Brief description of cause:

Plaintiff alleges that she suffered personal injuries as a result of a sexual assault that occurred at a hotel and resort in March, 2001.

**VII. REQUESTED IN COMPLAINT:**

☐ CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23

DEMAND \$ 2,000,000

CHECK YES only if demanded in complaint:  
JURY DEMAND: ☒ Yes ☐ No

**VIII. RELATED CASE(S) IF ANY**

(See instructions):

JUDGE

DOCKET NUMBER

DATE

SIGNATURE OF ATTORNEY OF RECORD

7/20/05

FOR OFFICE USE ONLY

RECEIPT # \_\_\_\_\_ AMOUNT \_\_\_\_\_ APPLYING IFP \_\_\_\_\_ JUDGE \_\_\_\_\_ MAG. JUDGE \_\_\_\_\_

UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS

1. Title of case (name of first party on each side only) Holly Zupofska v. Wyndham International, Inc.
2. Category in which the case belongs based upon the numbered nature of suit code listed on the civil cover sheet. (See local rule 40.1(a)(1)).
- ☐ I. 160, 410, 470, 535, R.23, REGARDLESS OF NATURE OF SUIT.
- ☐ II. 195, 196, 368, 400, 440, 441-446, 540, 550, 555, 625, 710, 720, 730, \*Also complete AO 120 or AO 121 for patent, trademark or copyright cases  
740, 790, 791, 820\*, 830\*, 840\*, 850, 890, 892-894, 895, 950.
- ☒ III. 110, 120, 130, 140, 151, 190, 210, 230, 240, 245, 290, 310, 315, 320, 330, 340, 345, 350, 355, 360, 362, 365, 370, 371, 380, 385, 450, 891.
- ☐ IV. 220, 422, 423, 430, 460, 480, 490, 510, 530, 610, 620, 630, 640, 650, 660, 690, 810, 861-865, 870, 871, 875, 900.
- ☐ V. 150, 152, 153.

05 11532 RWZ

3. Title and number, if any, of related cases. (See local rule 40.1(g)). If more than one prior related case has been filed in this district please indicate the title and number of the first filed case in this court.
4. Has a prior action between the same parties and based on the same claim ever been filed in this court?  
YES ☐ NO ☒
5. Does the complaint in this case question the constitutionality of an act of congress affecting the public interest? (See 28 USC §2403)  
YES ☐ NO ☒  
If so, is the U.S.A. or an officer, agent or employee of the U.S. a party?  
YES ☐ NO ☐
6. Is this case required to be heard and determined by a district court of three judges pursuant to title 28 USC §2284?  
YES ☐ NO ☒
7. Do all of the parties in this action, excluding governmental agencies of the united states and the Commonwealth of Massachusetts ("governmental agencies"), residing in Massachusetts reside in the same division? - (See Local Rule 40.1(d)).  
YES ☐ NO ☒  
A. If yes, in which division do all of the non-governmental parties reside?  
Eastern Division ☐ Central Division ☐ Western Division ☐  
B. If no, in which division do the majority of the plaintiffs or the only parties, excluding governmental agencies, residing in Massachusetts reside?  
Eastern Division ☒ Central Division ☐ Western Division ☐
8. If filing a Notice of Removal - are there any motions pending in the state court requiring the attention of this Court? (If yes, submit a separate sheet identifying the motions)  
YES ☐ NO ☒

(PLEASE TYPE OR PRINT)

ATTORNEY'S NAME Edward D. Shoulkin, Esq. Eric M. Chodkowski, Esq.ADDRESS Taylor, Duane, Barton & Gilman, LLP 160 Federal Street Boston, MA 02110TELEPHONE NO. (617) 654-8200